REMARKS

This response is submitted along with a request for two months extension and appropriate fee in reply to the Office Action dated August 16, 2005. Claims 1-7 currently stand rejected and are the only pending claims in the application.

In light of the remarks presented below, Applicants respectfully requests reconsideration and allowance of all now-pending claims of the present invention.

Claim Rejections - 35 USC §103

Claims 1-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Vedrine (U.S. Patent No. 6,707,808) in view of Terry et al. (U.S. Patent Publication No. 2003/0086379, hereinafter "Terry"). Applicants respectfully traverse.

I. INDEPENDENT CLAIM 1 IS PATENTABLE OVER THE REFERENCES.

Independent claim 1 recites, *inter alia*, allocating a locally unique code, a whole of the code being included in each burst at a predetermined location therein to indicate to the mobile station that the mobile station is a target for the radio block. In other words, the code indicates to the mobile station that the mobile station is a target for the radio block. For example, the code defines the destination for the data signal.

As conceded in the Office Action, Vedrine fails to teach or suggest a whole of the code being included in each burst at a predetermined location therein to indicate to the mobile station that the mobile station is a target for the radio block as claimed in independent claim 1. As such, the Office Action cites Terry as teaching such feature. Terry is directed to a wireless communication system in which a data signal is made up of transmission time intervals (TTIs). Each TTI is made up of a number of frames and each frame is divided into a number of codes and timeslots. A transport format combination index (TFCI) is included at a predetermined point in the first frame of each TTI. The TFCI contains information which tells the receiver which codes and timeslots in the TTI are being transmitted, and which are not being transmitted. Accordingly, the receiver is enabled to turn off during timeslots which are not utilized by the TTI

thereby saving power and increasing battery life of the receiver. However, even assuming Terry discloses adding a code to a data signal in a predetermined location, Terry still fails to teach or suggest allocating a code of the type defined by independent Claim 1 to indicate to the mobile station that the mobile station is a target for the radio block. In fact, Terry fails to include any mention of a code used to designate a correct receiving station. Indeed, Terry does not discuss multiple receivers in any regard and, as such, would not appear to have any need for a code that identifies the particular mobile station that is the target for the radio block. To the contrary, Terry only specifies that the code is used to enable the receiver to switch on and off to save power. Accordingly, Terry fails to teach or suggest allocating a code that indicates to the mobile station that the mobile station is a target for the radio block as claimed in independent claim 1.

Thus, both Terry and Verdine fail to teach or suggest allocating a code that indicates to the mobile station that the mobile station is a target for the radio block as claimed in independent claim 1. Thus, the cited references, taken either individually or in combination, fail to render independent claim 1 obvious. Claims 2-7 depend either directly or indirectly from independent claim 1, and thus include all the recitations of independent claim 1. Therefore, dependent claims 2-7 are patentable for at least those reasons given above for independent claim 1.

II. THERE IS NO MOTIVATION TO COMBINE VERDINE AND TERRY.

Applicants also submit that there is no motivation to combine the references. In this regard, a teaching or motivation to combine the references is essential in order to properly combine references. *In re Fine*, 337 F.2d 1071, 1075 (Fed. Cir. 1988). In fact, the Court of Appeals for the Federal Circuit has stated that, "[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999). Although the evidence of a suggestion, teaching, or motivation to combine the references commonly comes from the prior art references themselves, the suggestion, teaching, or motivation can come from the knowledge of one of ordinary skill in the art or the nature of the problem to be solved. *Id.* In any event, **the showing must be clear and particular** and "[b]road conclusory statements regarding the teaching effect

of multiple references, standing alone, are not 'evidence'." *Id.* The Applicants seasonably challenge the assertion in the Office Action that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the TFCI taught by Terry in the system of Vedrine for the purpose of enabling the mobile station to know which transport channels are active for the current frame thereby enabling the mobile station to properly communicate as taught by Terry" as being a broad conclusory statement which, standing alone, is not "evidence", as required under the patent laws, of motivation to combine the cited references. Such a broad statement does not provide evidence of motivation for one seeking to provide a method to wirelessly communicate with one of a plurality of receiving stations to look to the art of power saving mechanisms for a means to improve such a method. In fact, the references fail to provide motivation or suggestion for their combination since the references are silent regarding such motivation and thus any combination is hindsight driven. Accordingly, Applicants respectfully submit that there is no motivation to combine the references.

III. TERRY IS NOT ANALOGOUS ART.

As stated above, the claimed invention is generally directed to a method to wirelessly communicate with one of a plurality of receiving stations while Terry is directed to a wireless communication system in which a data signal is made up of transmission time intervals (TTIs) including codes which are utilized to reduce power consumption of a receiver by enabling the receiver to switch on and off.

Applicants respectfully submit that Terry is not a proper reference because Terry describes nonanalogous art. To rely on a reference under 35 U.S.C. §103, it must be analogous prior art. See MPEP 2141.01(a). The two-part test for analogous art requires that "the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *State Contracting & Eng'g Corp. v. Condotte America, Inc.*, 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed.Cir. 2003) (where if the general scope of a reference is outside the pertinent field of endeavor, the reference may still be considered analogous art if subject matter disclosed therein is relevant to the particular problem

with which the inventor is involved). Terry is directed to power conservation. The problem to be addressed in this art is determining a means by which to control the on and off times of the receiver. To the contrary, the claimed invention is directed to identifying a mobile station to which a radio block is intended. The problem to be addressed in the art of the claimed invention is communicating with a particular device or receiver in a multiple receiver environment. Terry, on the one hand, and the present application, on the other hand, are simply not in the same field of endeavor with Terry being concerned about power conservation while the claimed invention is, quite differently, directed to communication with one of a plurality of receiving stations. Therefore, Terry is not reasonably pertinent to the particular problem with which the inventor was concerned. Thus, Terry is not analogous art and, therefore, cannot be relied upon to support an obviousness rejection under 35 U.S.C. §103.

Thus, for all the reasons stated above, Applicants respectfully submit that the rejections of claims 1-7 are overcome.

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CONCLUSION

In view of the remarks presented above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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Date